



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor Vehicle Theft Prevention Standard;

Nissan North America, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT)

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Nissan North America, Inc.'s, (Nissan) petition for exemption of the (confidential) vehicle line in accordance with the Exemption from the Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard (Theft Prevention Standard). Nissan also requested confidential treatment for specific information in its petition. While official notification granting or denying its request for confidential treatment will be addressed by separate letter, no confidential information provided for purposes of this document has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2018 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., West Building, Room W43-439, Washington, D.C. 20590. Ms. Ballard's telephone phone number is (202) 366-5222. Her fax number is (202)

493-2990.

SUPPLEMENTAL INFORMATION: In a petition dated March 31, 2017, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the (confidential) vehicle line beginning with MY 2018. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR Part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the (confidential) vehicle line. Nissan stated that the MY 2018 (confidential) vehicle line will be installed with a passive, electronic engine immobilizer antitheft device as standard equipment. Key components of the antitheft device will include an engine immobilizer, engine control module (ECM), security indicator light, immobilizer antenna, Key FOB, and a specially-designed key with a microchip. Nissan will not provide any visible or audible indication of unauthorized vehicle entry on the (confidential) vehicle line.

Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in §543.5 and the specific content requirements of §543.6.

In addressing the specific content requirements of 543.6, Nissan provided information on the reliability and durability of its proposed device. Nissan stated that its antitheft device is tested for specific parameters to ensure its reliability and durability. Nissan provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device

complied with its specified requirements for each test. Nissan further stated that its immobilizer device satisfies the European Directive ECE R116, including tamper resistance. Nissan also stated that all control units for the device are located inside the vehicle, providing further protection from unauthorized accessibility of the device from outside the vehicle.

Nissan stated that activation of its immobilizer device occurs automatically when the ignition switch is turned to the “OFF” position which then causes the security indicator light to flash notifying the operator that the immobilizer device is activated. Nissan stated that the immobilizer device prevents normal operation of the vehicle without using a specially-designed microchip key with a pre-registered “Key-ID”. Nissan also stated that, when the brake and clutch is on and the key FOB is near the engine start switch, the Key-ID is scanned via the immobilizer antenna. The microchip in the key transmits the Key-ID to the BCM, beginning an encrypted communication process. If the Key-ID and encrypted code are correct, the ECM will allow the engine to keep running and the driver to operate the vehicle. If the Key-ID and encrypted code are not correct, the ECM will cause the engine to shut down.

Nissan stated that the proposed device is functionally equivalent to the antitheft device installed on the MY 2011 Nissan Cube vehicle line which was granted a parts-marking exemption by the agency on April 14, 2010 (75 FR 19458). The agency notes that the theft rates for the Nissan Cube using an average of 3 MYs data (2012-2014), are 0.3322, 0.6471 and 2.0373 respectively.

Nissan provided data on the effectiveness of the antitheft device installed on its (confidential) vehicle line in support of the belief that its antitheft device will be highly effective in reducing and deterring theft. Nissan referenced the National Insurance Crime Bureau’s data

which it stated showed a 70% reduction in theft when comparing MY 1997 Ford Mustangs (with a standard immobilizer) to MY 1995 Ford Mustangs (without an immobilizer). Nissan also referenced the Highway Loss Data Institute's data which reported that BMW vehicles experienced theft loss reductions resulting in a 73% decrease in relative claim frequency and a 78% lower average loss payment per claim for vehicles equipped with an immobilizer. Additionally, Nissan stated that theft rates for its Pathfinder vehicle experienced reductions from model year (MY) 2000 to 2001 with implementation of the engine immobilizer device as standard equipment and further significant reductions subsequent to MY 2001. Specifically, Nissan noted that the agency's theft rate data for MY's 2001 through 2006 reported theft rates of 1.9146, 1.8011, 1.1482, 0.8102, 1.7298 and 1.3474 respectively for the Nissan Pathfinder.

Nissan compared its device to other similar devices previously granted exemptions by the agency. Specifically, it referenced the agency's grant of full exemptions to General Motors Corporation for its Buick Riviera and Oldsmobile Aurora vehicle lines (58 FR 44872, August 25, 1993) and its Cadillac Seville vehicle line (62 FR 20058, April 24, 1997) from the parts-marking requirements of the theft prevention standard. Nissan stated that it believes that since its device is functionally equivalent to other comparable manufacturer's devices that have already been granted parts-marking exemptions by the agency, along with the evidence of reduced theft rates for vehicle lines equipped with similar devices and advanced technology of transponder electronic security, the Nissan immobilizer device will have the potential to achieve the level of effectiveness equivalent to those vehicles already exempted by the agency. The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions

Based on the supporting evidence submitted by Nissan, the agency believes that the antitheft device for the (confidential) vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). The agency concludes that the device will provide four of the five types of performance listed in §543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device for the (confidential) vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Nissan (confidential) vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which

the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard. As a condition to the formal granting of Nissan's petition for exemption from the parts-marking requirements of 49 CFR Part 541 for the MY 2018 (confidential) vehicle line, the agency fully expects Nissan to notify the agency of the nameplate for the vehicle line prior to its introduction into the United States commerce for sale.

If Nissan decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before

preparing and submitting a petition to modify.

Issued in Washington, DC under authority delegated in 49 CFR part 1.95

Raymond R. Posten
Associate Administrator for Rulemaking

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